

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

Filed: July 8, 2021

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KEN AND SHAUN WINGERTER,  
*on behalf of their minor child, H.W.,*

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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No. 20-1408V

Special Master Sanders

Vaccine Rule 10(d)(3);  
42 U.S.C. § 300aa-21(b);  
Order Concluding Proceedings

*Andrew D. Downing*, Van Cott & Talamante, PLLC, Phoenix, AZ, for Petitioners.

*Debra A. Begley*, United States Department of Justice, Washington, DC, for Respondent.

### **ORDER CONCLUDING PROCEEDINGS<sup>1</sup>**

The petition in this matter was filed on October 16, 2020. ECF No. 1. Petitioners alleged that H.W. suffered an adverse reaction to the Gardasil vaccination administered on August 20, 2018. *Id.* at 1.

On June 14, 2021, I issued a formal notice pursuant to 42 U.S.C. § 3000aa-12(d)(3)(A)(ii), advising Petitioners that the statutory 240-day time period for the issuance of a decision had expired and notifying Petitioners that they may withdraw the petition under § 300aa-21(b) or choose to remain in the Vaccine Program. *See* ECF No. 15.

On July 6, 2021, Petitioners filed a notice of intent to withdraw petition in which they stated that, pursuant to 42 U.S.C. § 300aa-21(b), they wish to withdraw their petition. ECF No. 16.

Based on Petitioners' notice, it appears that Petitioners are electing to exercise their right under § 300aa-21(b) to withdraw their petition following the Court's failure to issue a decision

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<sup>1</sup> Although this Order has been formally designated "unpublished," it will nevertheless be posted on the Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). **This means the Order will be available to anyone with access to the internet.** However, the parties may object to the Order's inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, the whole Order will be available to the public. *Id.*

within 240 days of the filing of said petition. Therefore, Petitioners' request to withdraw their petition is granted.

Accordingly, this Order hereby notifies the Clerk of Court that proceedings on the merits of this petition are now concluded, but no judgment on the merits should be entered by the Clerk's Office.

**IT IS SO ORDERED.**

**s/ Herbrina D. Sanders**

Herbrina D. Sanders

Special Master